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12 (successor by merger to Defendant WACHOVIA
13 BANK, N.A.) and METROPOLITAN WEST
14 SECURITIES LLC

15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

17 STATE COMPENSATION INSURANCE
18 FUND,

19 Plaintiff,

20 vs.

21 METROPOLITAN WEST SECURITIES
22 LLC; WACHOVIA BANK, N.A.; DOES
23 1 through 10, inclusive; and DOES 11
24 through 20, inclusive,

25 Defendants.

CASE NO. CV 09-02959 JSW (EDL)

**STIPULATED ~~PROPOSED~~ ORDER ON
DEFENDANTS' RENEWED MOTION TO
COMPEL RULE 30(B)(6) DEPOSITION**

Date: November 8, 2011

Time: 9:00 a.m.

Courtroom: E

Judge: Honorable Elizabeth D. Laporte

1 On November 8, 2011 at 9:00 a.m., Defendants' Renewed Motion to Compel Rule
2 30(b)(6) Deposition Testimony Pursuant to the Court's July 18, 2011 Order ("Motion") came on
3 for hearing in Courtroom E of the above-captioned Court, the Honorable Elizabeth D. Laporte
4 presiding. The Court directed the parties at that time to have a further discussion regarding the
5 issues raised in the Motion. The parties thereafter reached the following stipulations in full
6 resolution of the Motion, which the Court now orders:

- 7 (1) Plaintiff shall continue its investigation into whether custodian Steve Kolakowski
8 had a "P drive" during the time he worked for Plaintiff, and if so, the whereabouts
9 of the data contained thereon. Once Plaintiff concludes this investigation, Plaintiff
10 shall provide a supplemental declaration to Defendants concerning the results of
11 the investigation.
- 12 (2) Plaintiff shall confer with the following current or former employees concerning
13 their e-mail deletion practices, including the frequency with which they deleted e-
14 mails: Maribel Aleman, Stephanie Chan, Leslie Dawe, Steve Kolakowski, Amelia
15 Ma, Maria Quintanilla, and Liberty Viray. Plaintiff shall report to Defendants
16 what Plaintiff learns about these employees' practices in this regard.
- 17 (3) After Defendants receive the information referenced in paragraph (2) above,
18 Defendants may identify one date from which they would like backup tapes of Mr.
19 Kolakowski's electronic data to be restored, and one date from which they would
20 like backup tapes of Ms. Ma's e-mail data to be restored. Plaintiff shall restore
21 backup tapes for Mr. Kolakowski and Ms. Ma on the designated dates (to the
22 extent full backups were made on the designated dates, and if they were not, then
23 Plaintiff shall used the nearest subsequent dates on which full backups were
24 made).
- 25 (4) After Defendants receive the information referenced in paragraph (2) above,
26 Defendants also may identify dates from which they would like backup tapes of
27 the e-mail data of Ms. Aleman, Ms. Chan, Ms. Dawe, Ms. Quintanilla, and Ms.
28 Viray to be restored. Plaintiffs have agreed to provide the information without

1 agreeing or conceding any additional restoration from backup tapes for these
 2 custodians is warranted. Should Defendant make such a request, the parties shall
 3 have a further discussion about the appropriateness of any such requested
 4 restorations, and if they cannot reach agreement, either side may apply to the Court
 5 to resolve the issue.

- 6 (5) The foregoing fully resolves the Motion. If a new issue arises from the process
 7 ordered above that Defendants believe warrants additional information from
 8 Plaintiff, the parties shall meet and confer in an effort to resolve the issue. If the
 9 parties cannot reach agreement, Defendants may apply to the Court for a Rule
 10 30(b)(6) deposition with respect to that issue, and/or for other appropriate relief.

11
 12 Date: November 14, 2011

MUNGER, TOLLES & OLSON LLP

13
 14 By: /s/ James C. Rutten

James C. Rutten

15 Attorneys for WELLS FARGO BANK, N.A.
 16 (successor by merger to Defendant
 17 WACHOVIA BANK, N.A.) and Defendant
 18 METROPOLITAN WEST SECURITIES LLC

19 Date: November 14, 2011

BARGER & WOLEN LLP

20
 21 By: /s/ J. Russell Stedman


J. Russell Stedman

22 Attorneys for Plaintiff STATE
 23 COMPENSATION INSURANCE FUND

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25 PURSUANT TO STIPULATION, IT IS SO ORDERED:

26 DATED: November 15, 2011

27 
 28 The Honorable Elizabeth D. Laporte
 United States Magistrate Judge

FILER'S ATTESTATION

I, James C. Rutten, am the ECF user whose ID and password are being used to file this Stipulated [Proposed] Order on Defendants' Renewed Motion to Compel Rule 30(b)(6) Deposition. In compliance with General Order 45, X.B, I hereby attest that the other attorney listed as a signatory above has concurred in this filing.

Date: November 14, 2011

By: /s/ James C. Rutten
James C. Rutten